



Reprinted
March 3, 1999

HOUSE BILL No. 1703

DIGEST OF HB 1703 (Updated March 2, 1999 11:42 am - DI 98)

Citations Affected: IC 20-8.1; IC 31-37.

Synopsis: Psychological evaluation of children bringing guns to school. Provides for purposes of expulsion from school that a student who brings a firearm or deadly weapon onto a school bus or possesses the item on a school bus is considered to be on school property. Requires a school employee to notify in writing the school superintendent or superintendent's designee if a student is or has been in possession of a firearm on school property, at a school function, or on a school bus. Requires a school superintendent or designee who receives such written notification to notify a law enforcement agency. Allows a child less than 10 years of age who is taken into custody for possession of a firearm on school property, at school function, or on a school bus to be held in detention until a detention hearing. Requires
(Continued next page)

Effective: July 1, 1999.

Cheney, Crosby, Ayres

January 26, 1999, read first time and referred to Committee on Education.
February 15, 1999, amended, reported — Do Pass.
February 24, 1999, read second time, made special order of business for February 25, 1999, at 11:00 a.m.
March 1, 1999, reread second time, made special order of business for March 2, 1999, at 10:30 a.m.
March 2, 1999, reread second time, amended, ordered engrossed.

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detention if the child is at least 10 years of age. Requires the parents of a child held in detention to be immediately notified of the charges against the child, the child's location, and the date, time, and place of the detention hearing. Requires a court to order a psychological evaluation of the child by a licensed physician or clinical psychologist to determine if the child is a danger to the child or others. Provides that a psychologist who is an employee of or who has a contractual obligation with the school may not conduct the psychological evaluation without the express written consent of the child's parents. Requires the person conducting the evaluation to provide a report to the court before the detention hearing or other time specified by the court if the child is not held in detention. Specifies that the provisions regarding expulsion and detention of students possessing firearms or deadly weapons do not apply to students of nonpublic schools.

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March 3, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1703

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-8.1-5.1-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) As used in this
3 section, "firearm" has the meaning set forth in IC 35-47-1-5.

4 (b) As used in this section, "deadly weapon" has the meaning set
5 forth in IC 35-41-1-8. The term does not include a firearm.

6 (c) **As used in this section, "school" does not include a nonpublic**
7 **school as defined in IC 20-10.1-1-3.**

8 (d) Notwithstanding section 14 of this chapter, a student who is:

9 (1) identified as bringing a firearm to school or on school property
10 **or a school bus;** or

11 (2) in possession of a firearm on school property **or a school bus;**
12 must be expelled for a period of at least one (1) calendar year, with the
13 return of the student to be at the beginning of the first school semester
14 after the end of the one (1) year period.

15 (e) The superintendent may, on a case-by-case basis, modify the
16 period of expulsion under subsection (c) for a student who is expelled
17 under this section.

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(f) Notwithstanding section 14 of this chapter, a student who is:

(1) identified as bringing a deadly weapon to school or on school property **or a school bus**; or

(2) in possession of a deadly weapon on school property; may be expelled for a period of not more than one (1) calendar year.

(g) A superintendent shall notify the prosecuting attorney of the county in which the school is located if a student is expelled under subsection (c) or (e). Upon receiving notification under this subsection, the prosecuting attorney shall begin an investigation and take appropriate action.

(h) A student with disabilities (as defined in IC 20-1-6.1-7) who possesses a firearm on school property is subject to procedural safeguards under 20 U.S.C. 1415.

(i) **A school employee who reasonably believes that a student possesses or has possessed a firearm:**

(1) **in or on school property;**

(2) **in or on property that is being used by a school for a school function; or**

(3) **on a school bus;**

shall immediately notify the school superintendent or the superintendent's designee. The notification required under this subsection must be in writing.

(j) **A superintendent or superintendent's designee who receives a written notification under subsection (h) shall immediately notify a law enforcement agency in the county in which the school is located. The law enforcement agency shall:**

(1) **begin an investigation and cause any appropriate action to be taken under IC 31-37-5-3.4 or IC 31-37-5-3.7; and**

(2) **report the matter to the prosecuting attorney of the county in which the school is located for further investigation, if appropriate.**

SECTION 2. IC 31-37-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) **Except as provided in section 3.4 or 3.7 of this chapter**, if a child is not taken into custody under an order of the court, the law enforcement officer may release the child or may release the child to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. However, the law enforcement officer may place the child in detention if the law enforcement officer reasonably believes that:

(1) the child is unlikely to appear before the juvenile court for subsequent proceedings;



- (2) the child has committed an act that would be murder or a Class A or Class B felony if committed by an adult;
- (3) detention is essential to protect the child or the community;
- (4) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

(b) If a child is detained for a reason specified in subsection (a)(4) or (a)(5), the child shall be detained under IC 31-37-7-1.

SECTION 3. IC 31-37-5-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.4. (a) This section applies to a child who is:**

- (1) less than ten (10) years of age; and**
- (2) taken into custody:**
 - (A) by a law enforcement officer;**
 - (B) without an order of the court; and**
 - (C) for possession of a firearm:**
 - (i) in or on school property;**
 - (ii) in or on property that is being used by a school for a school function; or**
 - (iii) on a school bus.**

(b) A law enforcement officer may release a child described in subsection (a) to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. However, the law enforcement officer may place the child in detention if the law enforcement officer reasonably believes that one (1) or more of the conditions of section 3(a)(1) through 3(a)(5) of this chapter exist.

(c) If a child is detained under subsection (b), the child shall be detained under IC 31-37-7-1.

(d) The court shall order a child described in subsection (a) to undergo a psychological evaluation by a licensed physician or clinical psychologist to assist the court in determining under IC 31-37-6-6(a) if detention of the child is essential to protect the child or the community.

(e) The physician or psychologist conducting an evaluation required under subsection (d) shall provide a report of the evaluation to the court before:

- (1) the detention hearing held under IC 31-37-6, if the child is detained under subsection (b); or**
- (2) the child appears in juvenile court at the time specified**



upon the child's release, if the child is released under subsection (b).

SECTION 4. IC 31-37-5-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3.7. (a) This section applies to a child who is:

- (1) at least ten (10) years of age; and
- (2) taken into custody:
 - (A) by a law enforcement officer;
 - (B) without an order of the court; and
 - (C) for possession of a firearm:
 - (i) in or on school property;
 - (ii) in or on property that is being used by a school for a school function; or
 - (iii) on a school bus.

(b) A law enforcement officer shall place in detention a child described in subsection (a).

(c) A child detained under subsection (b) shall be held in detention until a detention hearing is held under IC 31-37-6.

(d) The court shall order a child described in subsection (a) to undergo a psychological evaluation by a licensed physician or clinical psychologist to assist the court in determining under IC 31-37-6-6(a) if detention of the child is essential to protect the child or the community.

(e) The physician or psychologist conducting an evaluation required under subsection (d) shall provide a report of the evaluation to the court before the detention hearing.

SECTION 5. IC 31-37-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) **Except as provided in section 5.4 or 5.7 of this chapter**, if the child was not taken into custody under an order of the court, an intake officer shall investigate the reasons for the child's detention. The intake officer shall release the child to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. However, the intake officer may place the child in detention if the intake officer reasonably believes that the child is a delinquent child and that:

- (1) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (2) the child has committed an act that would be murder or a Class A or Class B felony if committed by an adult;
- (3) detention is essential to protect the child or the community;
- (4) the parent, guardian, or custodian:



- 1 (A) cannot be located; or
 2 (B) is unable or unwilling to take custody of the child; or
 3 (5) the child has a reasonable basis for requesting that the child
 4 not be released.
- 5 (b) If a child is detained for a reason specified in subsection (a)(4)
 6 or (a)(5), the child shall be detained under IC 31-37-7-1.
- 7 SECTION 6. IC 31-37-5-5.4 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 1999]: **Sec. 5.4. (a) This section applies to a child who is:**
- 10 (1) less than ten (10) years of age; and
 11 (2) taken into custody:
- 12 (A) by an intake officer;
 13 (B) without an order of the court; and
 14 (C) for possession of a firearm:
- 15 (i) in or on school property;
 16 (ii) in or on property that is being used by a school for a
 17 school function; or
 18 (iii) on a school bus.
- 19 (b) An intake officer may release a child described in subsection
 20 (a) to the child's parent, guardian, or custodian upon the person's
 21 written promise to bring the child before the juvenile court at a
 22 time specified. However, the intake officer may place the child in
 23 detention if the intake officer reasonably believes that:
- 24 (1) the child is a delinquent child; and
 25 (2) one (1) or more of the conditions of section 5(a)(1) through
 26 5(a)(5) of this chapter exist.
- 27 (c) If a child is detained under subsection (b), the child shall be
 28 detained under IC 31-37-7-1.
- 29 (d) The court shall order a child described in subsection (a) to
 30 undergo a psychological evaluation by a licensed physician or
 31 clinical psychologist to assist the court in determining under
 32 IC 31-37-6-6(a) if detention of the child is essential to protect the
 33 child or the community.
- 34 (e) The physician or psychologist conducting an evaluation
 35 required under subsection (d) shall provide a report of the
 36 evaluation to the court before:
- 37 (1) the detention hearing held under IC 31-37-6, if the child is
 38 detained under subsection (b); or
 39 (2) the child appears in juvenile court at the time specified
 40 upon the child's release, if the child is released under
 41 subsection (b).
- 42 SECTION 7. IC 31-37-5-5.7 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 5.7. (a) This section applies to a child who is:**

- (1) at least ten (10) years of age; and**
- (2) taken into custody:**
 - (A) by an intake officer;**
 - (B) without an order of the court; and**
 - (C) for possession of a firearm:**
 - (i) in or on school property;**
 - (ii) in or on property that is being used by a school for a school function; or**
 - (iii) on a school bus.**

(b) An intake officer shall place in detention a child described in subsection (a).

(c) A child detained under subsection (b) shall be held in detention until a detention hearing is held under IC 31-37-6.

(d) The court shall order a child described in subsection (a) to undergo a psychological evaluation by a licensed physician or clinical psychologist to assist the court in determining under IC 31-37-6-6(a) if detention of the child is essential to protect the child or the community.

(e) The physician or psychologist conducting an evaluation required under subsection (d) shall provide a report of the evaluation to the court before the detention hearing.

SECTION 8. IC 31-37-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:

- (1) the child is unlikely to appear for subsequent proceedings;**
- (2) detention is essential to protect the child or the community;**
- (3) the parent, guardian, or custodian:**
 - (A) cannot be located; or**
 - (B) is unable or unwilling to take custody of the child; or**
- (4) the child has a reasonable basis for requesting that the child not be released; or**
- (5) the psychological evaluation required under IC 31-37-5-3.4, IC 31-37-5-3.7, IC 31-37-5-5.4, or IC 31-37-5-5.7 has not been completed.**

(b) If a child is detained for a reason specified in subsection (a)(3) or (a)(4), the child shall be detained under IC 31-37-7-1.



- 1 **(c) If a child is detained under subsection (a)(5), the court shall:**
2 **(1) grant the physician or psychologist conducting the**
3 **evaluation an additional period not to exceed forty-eight (48)**
4 **hours to complete the evaluation; and**
5 **(2) hold a hearing within forty-eight (48) hours of receiving**
6 **the report of the evaluation to determine if the child should be**
7 **detained under subsection (a)(1) through (a)(4).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1703, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, after "property" insert "**or a school bus**".

Page 1, line 9, after "property" insert "**or a school bus**".

Page 2, line 1, after "property" insert "**or a school bus**".

and when so amended that said bill do pass.

(Reference is to HB 1703 as introduced.)

PORTER, Chair

Committee Vote: yeas 12, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1703 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"(c) As used in this section, "school" does not include a nonpublic school as defined in IC 20-10.1-1-3."

Page 1, line 6, delete "(c)" and insert "(d)".

Page 1, line 13, delete "(d)" and insert "(e)".

Page 1, line 16, delete "(e)" and insert "(f)".

Page 2, line 4, delete "(f)" and insert "(g)".

Page 1, line 9, delete "(g)" and insert "(h)".

Page 2, line 12, delete "(h)" and insert "(i)".

(Reference is to HB 1703 as printed February 16, 1999.)

BEHNING

HOUSE MOTION

Mr. Speaker: I move that House Bill 1703 be amended to read as follows:

Page 2, delete lines 12 through 21, begin a new paragraph and insert:

"(h) A school employee who reasonably believes that a student possesses or has possessed a firearm:

(1) in or on school property;

(2) in or on property that is being used by a school for a school function; or

(3) on a school bus;

shall immediately notify the school superintendent or the superintendent's designee. The notification required under this subsection must be in writing.

(i) A superintendent or superintendent's designee who receives a written notification under subsection (h) shall immediately notify a law enforcement agency in the county in which the school is located. The law enforcement agency shall:

(1) begin an investigation and cause any appropriate action to be taken under IC 31-37-5-3.4 or IC 31-37-5-3.7; and

(2) report the matter to the prosecuting attorney of the county in which the school is located for further investigation, if appropriate."

Page 2, line 24, delete "subsection (c)" and insert "section 3.4 or 3.7



of this chapter".

Page 3, delete lines 1 through 10, begin a new paragraph and insert:
 "SECTION 3. IC 31-37-5-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.4. (a) This section applies to a child who is:**

- (1) less than ten (10) years of age; and**
- (2) taken into custody:**
 - (A) by a law enforcement officer;**
 - (B) without an order of the court; and**
 - (C) for possession of a firearm:**
 - (i) in or on school property;**
 - (ii) in or on property that is being used by a school for a school function; or**
 - (iii) on a school bus.**

(b) A law enforcement officer may release a child described in subsection (a) to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. However, the law enforcement officer may place the child in detention if the law enforcement officer reasonably believes that one (1) or more of the conditions of section 3(a)(1) through 3(a)(5) of this chapter exist.

(c) If a child is detained under subsection (b), the child shall be detained under IC 31-37-7-1.

(d) The court shall order a child described in subsection (a) to undergo a psychological evaluation by a licensed physician or clinical psychologist to assist the court in determining under IC 31-37-6-6(a) if detention of the child is essential to protect the child or the community.

(e) The physician or psychologist conducting an evaluation required under subsection (d) shall provide a report of the evaluation to the court before:

- (1) the detention hearing held under IC 31-37-6, if the child is detained under subsection (b); or**
- (2) the child appears in juvenile court at the time specified upon the child's release, if the child is released under subsection (b).**

SECTION 4. IC 31-37-5-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.7. (a) This section applies to a child who is:**

- (1) at least ten (10) years of age; and**
- (2) taken into custody:**



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- (A) by a law enforcement officer;
- (B) without an order of the court; and
- (C) for possession of a firearm:
 - (i) in or on school property;
 - (ii) in or on property that is being used by a school for a school function; or
 - (iii) on a school bus.

(b) A law enforcement officer shall place in detention a child described in subsection (a).

(c) A child detained under subsection (b) shall be held in detention until a detention hearing is held under IC 31-37-6.

(d) The court shall order a child described in subsection (a) to undergo a psychological evaluation by a licensed physician or clinical psychologist to assist the court in determining under IC 31-37-6-6(a) if detention of the child is essential to protect the child or the community.

(e) The physician or psychologist conducting an evaluation required under subsection (d) shall provide a report of the evaluation to the court before the detention hearing."

Page 3, line 13, delete "subsection (c)" and insert "section 5.4 or 5.7 of this chapter".

Page 3, delete lines 33 through 42, begin a new paragraph and insert:

"SECTION 6. IC 31-37-5-5.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 5.4. (a) This section applies to a child who is:**

- (1) less than ten (10) years of age; and
- (2) taken into custody:
 - (A) by an intake officer;
 - (B) without an order of the court; and
 - (C) for possession of a firearm:
 - (i) in or on school property;
 - (ii) in or on property that is being used by a school for a school function; or
 - (iii) on a school bus.

(b) An intake officer may release a child described in subsection (a) to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. However, the intake officer may place the child in detention if the intake officer reasonably believes that:

- (1) the child is a delinquent child; and



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(2) one (1) or more of the conditions of section 5(a)(1) through 5(a)(5) of this chapter exist.

(c) If a child is detained under subsection (b), the child shall be detained under IC 31-37-7-1.

(d) The court shall order a child described in subsection (a) to undergo a psychological evaluation by a licensed physician or clinical psychologist to assist the court in determining under IC 31-37-6-6(a) if detention of the child is essential to protect the child or the community.

(e) The physician or psychologist conducting an evaluation required under subsection (d) shall provide a report of the evaluation to the court before:

- (1) the detention hearing held under IC 31-37-6, if the child is detained under subsection (b); or
- (2) the child appears in juvenile court at the time specified upon the child's release, if the child is released under subsection (b).

SECTION 7. IC 31-37-5-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5.7. (a) This section applies to a child who is:

- (1) at least ten (10) years of age; and
- (2) taken into custody:
 - (A) by an intake officer;
 - (B) without an order of the court; and
 - (C) for possession of a firearm:
 - (i) in or on school property;
 - (ii) in or on property that is being used by a school for a school function; or
 - (iii) on a school bus.

(b) An intake officer shall place in detention a child described in subsection (a).

(c) A child detained under subsection (b) shall be held in detention until a detention hearing is held under IC 31-37-6.

(d) The court shall order a child described in subsection (a) to undergo a psychological evaluation by a licensed physician or clinical psychologist to assist the court in determining under IC 31-37-6-6(a) if detention of the child is essential to protect the child or the community.

(e) The physician or psychologist conducting an evaluation required under subsection (d) shall provide a report of the evaluation to the court before the detention hearing.

SECTION 8. IC 31-37-6-6 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The juvenile court shall release the child on the child's own recognizance or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:

- (1) the child is unlikely to appear for subsequent proceedings;
- (2) detention is essential to protect the child or the community;
- (3) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child; ~~or~~
- (4) the child has a reasonable basis for requesting that the child not be released; ~~or~~
- (5) the psychological evaluation required under IC 31-37-5-3.4, IC 31-37-5-3.7, IC 31-37-5-5.4, or IC 31-37-5-5.7 has not been completed.**

(b) If a child is detained for a reason specified in subsection (a)(3) or (a)(4), the child shall be detained under IC 31-37-7-1.

- (c) If a child is detained under subsection (a)(5), the court shall:**
- (1) grant the physician or psychologist conducting the evaluation an additional period not to exceed forty-eight (48) hours to complete the evaluation; and**
 - (2) hold a hearing within forty-eight (48) hours of receiving the report of the evaluation to determine if the child should be detained under subsection (a)(1) through (a)(4)."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1703 as printed February 16, 1999.)

CHENEY

HOUSE MOTION

Mr. Speaker: I move that House Bill 1703 be amended to read as follows:

Page 3, line 5, before "The" insert **"The child's parents shall be immediately notified of the charges against the child, the child's location, and the date, time, and place of the detention hearing."**

Page 3, line 8, before "The" insert **"A psychologist who is an employee of the school or has a contractual relationship with the school shall not be utilized by the court for the psychological evaluation without the express written consent of the child's**

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parents."

Page 3, line 37, before "The" insert "**The child's parents shall be immediately notified of the charges against the child, the child's location, and the date, time, and place of the detention hearing.**".

Page 3, line 40, before "The" insert "**A psychologist who is an employee of the school or has a contractual relationship with the school shall not be utilized by the court for the psychological evaluation without the express written consent of the child's parents.**".

(Reference is to HB1703 as printed February 16, 1999.)

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